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No. _____

UNITED STATES SUPREME COURT

October Term, 1981

Lowell M. Stroom, Petitioner
v.
James E. Carter, Respondent

On Petition for
Writ of Certiorari to
the United States Court of Appeals
for the District of Columbia Circuit

PETITION FOR WRIT OF CERTIORARI

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SUPREME COURT OF THE UNITED STATES

Lowell M. Stroom, Petitioner
v.
James E. Carter, Respondent

PETITION FOR WRIT OF CERTIORARI

A. THE QUESTIONS PRESENTED

The questions presented to the Supreme Court for review in these proceedings concern the rights of the People as defined and protected in the U. S. Constitution. They concern the voting franchise, several Articles and Amendments of the Constitution, and considerations for remedy from the deprivation of rights which are secured by the Constitution.

The questions presented for review in the Supreme Court are phrased within the context of the 1980 Presidential Elections, and the elections to Federal offices since then. In the 1980 Presidential Elections, and in prior years, Mr. Stroom, the Petitioner, was deprived of an effective Presidential Candidacy due to Mr. Carter's negligence in performing duties required by Articles II, IV, and VI of the

Constitution, due to Mr. Carter's failure to provide "equal protection of the laws", (amend. IX) and due to Mr. Carter's breach of oath. (art. II)

Also in the 1980 Presidential Election, every eligible voter was deprived of an effective voting franchise due to Mr. Carter's negligence in "executing the laws", (art. II) and due to his breach of oath. As a result of this negligence, voters were deprived of ballots which provide "an equal voice" in their government. The voting franchise, as required by Articles II, IV, and VI, and Amendments IX and XII was not secured and guaranteed, and the People are thus deprived of a right of having offices established by the Constitution, filled according to the laws of the Constitution. (art. IV, amend. IX) The results of an unconstitutional election must be null and void. No person in an unconstitutional election acquires the

authority of the Constitution to perform duties required by Article II of the Constitution.

Adjudicative facts, presented in the District Court, establish the unconstitutionality of the 1980 Presidential Elections. The questions presented in these proceedings concern primarily the relief and remedy which is required from such deprivation of rights. Common law, equity law, constitutional law, and statute law, mandate and establish remedy which, when there are deprivations of the voting franchise in elections, declares the offices to be vacant, and provides new elections conforming to the supreme laws. 1/ This is a relief sought be the Petitioner, which is contained

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1/ Such a mandate is consistent with, for example, the remedy contained in 35 D.C.C. §16-3545 (1981), which states that when an intruder has "usurped, intruded into or unlawfully held or excercised an office or franchise of the United States...he (shall) be ousted and excluded therefrom". Jurisdiction for this statute is established in the Federal Courts.

in three "Motions for Relief" that were entered into U. S. District Court. The "Proposed Orders" entered into the District Court, are appended to this "Petition" beginning on page A17 of the Appendix.

The questions presented in the lower courts, and for which review is sought in the Supreme Court, are as follows:

1. Whether Presidential and Federal Elections which fail to conform to the laws of the Constitution are valid, or must be declared unconstitutional, null and void?

2. Whether a new election in a "1982 Presidential Special Election" is a proper relief from an unconsitutional election, and from deprivation of franchise rights which are secured by the Constitution? Further, whether such relief is essential to Constitutional government when "other rights, even the most basic, are illusory if the right to vote is undermined"?

3. Whether remedy contained in Petitioner's "Motion 3 for Relief" for the "1982 Presidential Special Election" so provides for the Constitution's intent, that the rights of the voting franchise, as protected by the Constitution, are restored to the People?

Within these three questions are

are consideration for several Articles and Amendments to the U. S. Constitution, the Presidential oath of office, Federal questions, the Office of the President, negligence, deprivation of Constitutional rights, the usurpation of rights, the voting franchise, the supremacy of the laws of the Constitution, equal protection of the laws, due process of law, the inherent and inalienable rights of the People contained in the Constitution's "Bill of Rights", and the duty of the Federal Courts to secure and restore rights protected by the Constitution.

The lower courts failed to be responsive to these questions, or to give them consideration, and arbitrarily entered different questions. The result is an "Opinion" and "Order" in the District Court which are irrelevant and unrelated to the questions established by Plaintiff in this proceeding.

The relief contained in the proceeding consists only of the restoration of the rights of the People which are guaranteed by the Constitution. No officer of the United States may oppose the relief without, by intent or effect, depriving the People of rights which are protected by the Constitution. Such an effort is an unlawful use of an office of the United States, and is an offense against the United States as as defined in 18 U.S.C.§241 and 242. The office of the U. S. Attorney made such efforts in the lower courts, including statements entered into the Courts which were false and misleading, statements which obstructed the courts in their efforts to establish an equitable decision.

As concerns Rule 17 of the "Rules of the Supreme Court" (1980), the failure of the Courts to give consideration to the questions, and the entry of false and misleading statements by the U. S. Attorney

resulted in proceedings in the lower courts which:

> so far depart from the accepted and usual course of judicial proceedings as to call (for supervision by the Supreme Court). Rule 17.1 (a)

And further, the questions presented consist of:

> important questions of federal law which should be settled by (the Supreme) Court. Rule 17.1 (c)

B. PARTIES TO THE PROCEEDING

For the Petitioner:

Lowell M. Stroom

For the Respondent:

James E. Carter

The Attorney General of the United States

Charles F. C. Ruff, U. S. Attorney
Stanley Harris, U. S. Attorney
Royce L. Lamberth, Asst. U. S. Attorney
R. Craig Lawrence, Asst. U. S. Attorney
W. H. Briggs, Jr., Asst. U. S. Attorney

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* Blackstone, William: . . . . . 27, 65, 69 Commentaries on Laws of England (1765)

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* Indicates cases and authorities chiefly relied upon.

D. OPINIONS IN THE LOWER COURTS

The District Court failed to respond to Plaintiff's motion for an expedited hearing, and Plaintiff's application for a Three Judge Panel. The Court did not require a reply by the Defendant to the Plaintiff's "Interrogatory". There are no Court memorandums concerning any of these items.

The District Court issued a "Memorandum Opinion" (App. at A1), and an "Order" granting Defendant's motion to dismiss. (App. at A5).

The District Court denied Plaintiff's motion for a rehearing. (App. at A6).

The Court of Appeals issued orders denying Appellant's motion for an expedited hearing (App. at A7), and a suggestion for a hearing en banc. (App. at A8). The Court of Appeals issued orders denying

Appellant's motion for a temporary restraining order for relief from failure to provide an expedited hearing. (App. at A9).

The Court of Appeals issued an order affirming "the order of the District Court on appeal" (App. at A9), and denied a ruling on Appellant's motion for a ruling on procedures. (App. at A11).

The Court of Appeals denied Appellant's motion for a rehearing (App. at A13), and Appellant's suggestion for a rehearing en banc. (App. at A12).

No opinion was entered by the Court of Appeals, and no oral opinions of any kind have been provided in these proceedings.

E. JURISDICTION OF THE SUPREME COURT

(i) The "Order" of the Court of Appeals for which review is sought is dated May 24, 1982, and was effective July 5, 1982.

(App. at A9, A14).

(ii) An "Order" of the Court of Appeals, filed June 28, 1982, denied Appellant's motion for a rehearing (App. A13, A16), and a further "Order" denied Appellant's suggestion for a rehearing en banc. (App. at A12, A15).

(iii) (Does not apply)

(iv) The Supreme Court has jurisdiction in these proceedings pursuant to 28 U.S.C. §1254, the court may grant certiorari in any case in which final decisions have been entered by a Court of Appeals. Further, the case involves Federal questions requiring protection of the laws of the Constitution by the Supreme Court. Pursuant to 28 U.S.C. §1651, the Court may issue any writs, such as a writ of right or a writ of error, or others, which are essential to the effective performance of its Constitutional responsibilities.

In related cases decided by the Supreme

Court, the Court has citied its Constitutionally assigned jurisdiction in all judicial cases requiring protection for the supremacy of the laws of the Constitution. (art. VI) In such cases, as in Reynolds v. Sims, 377 US 533, Baker v. Carr, 369 US 206, Anderson v. U. S., 417 US 227, and U. S. v. Mosley, 238 US 383, the Court has issued decrees and relief whose effect is to protect the Preamble--"We, the People..."' Article IV--The United States shall guarantee a republican form of government; Article VI--the laws of the Constitution are the supreme law of the land; and Amendment XIV--the equal protection of the laws clause. In the present proceedings, further jurisdiction is contained in Article II--the enforcement by the Federal judiciary of conditions contained in the Presidential oath of office; in Amendment IX--the People are sovereign in the United States; and in

Amendment XII--the elections for President and Vice President shall be by separate ballots. In Swann v. Board of Education, 402 US 15, the Supreme Court cited its duty to repair the denial of a Constitutional right, stating: "The task is to correct... the condition which offends the Constitution."

Concerning Rule 17 of the "Rules of the Supreme Court", the proceedings in the lower courts included errors by the court, in matters of law, and false and misleading statements by Mr. Carter and the U. S. Attorney. The Court failed to give consideration to the questions entered into the Court by the Plaintiff, the Plaintiff's petition of grievance. Consideration for such questions is a right guaranteed by Amendment I of the Constitution (the right to petition for grievances). The Defendant, Mr. Carter, entered false statements into the Court--errors of fact--and also

statements which were misleading. Together, these resulted in a misapplication of the law to the grievances entered, and the entering of an "Opinion" by the Court, whose conclusions were based on false statements. In Rule 17.1(a) of the Supreme Court, the Court agrees to review:

> (those cases in which) a federal Court of Appeals has...so far departed from the accepted and usual course of judicial proceedings, or so far sanctioned such a departure by a lower court, as to call for an exercise of the (Supreme) Court's power of supervision.

Further in Rule 17, at .1(c), the Supreme Court asserts jurisdiction in:

> (those cases in which) a federal court of appeals has decided (or failed to decide) an important question of federal law which has not been, but should be, settled by (the Supreme) Court, or has decided a federal question in a way in conflict with applicable decisions of (the Supreme) Court.

The questions contained in this proceeding conform to the questions discussed in the quotation. They are federal questions of exceptional importance to the more than

200 million Americans whose rights to an effective voting franchise were deprived in the 1980 Presidential Elections, and in elections since then. And, as the Supreme Court stated in Reynolds, at 560, all "other rights, even the most basic, are illusory if the right to vote is undermined". The effect of reviewing the questions contained in this proceeding will be to provide the required United States guarantee of an "equal voice" in all future elections. For cases containing such important questions, the Supreme Court has established that "due process of law" consists of a special term of the Court to hear arguments which resolve the issues, as a matter of national interest. Effective republican government requires such a determination.

The filling of offices by persons with Constitutional authority to perform duties required by Article II is a right of the People, and it is as essential to

every governmental process of the Federal Government, as the laws of the Constitution are. People v. Londoner, 13 Colo 303. As the Supreme Court's decision in Ex Parte Yarbrough states: It is as essential "to the successful working of (Constitutional) government that the form of the government should be the free choice of the people, as that the original form (the Constitution) should be." (110 US 666)

The Supreme Court has jurisdiction in these proceedings pursuant to 28 U.S.C. §1651, Writs, which states that any Court "may issue all writs necessary or appropriate in aid of (its) jurisdictions". In these proceedings, the Writ of Certiorari is appropriate, as are similar writs, such as the Writ of Right or the Writ of Error. The "Opinion" and orders of the lower courts misapply the law, and espouse a legal premise and concepts which are not supported by the laws of the Consti-

tution or by recognized Constitutional authorities, and their effect is to undermine the Constitution. Such a false and mistaken application of law warrants a reversal of judgment in these proceedings, which grants relief.

The "Opinion" and orders conflict with decisions in cases decided by the Supreme Court, such as Reynolds v. Sims, with the commentaries provided by authors of the Constitution in matters concerning the intent of the laws of the Constitution, such as George Washington's "Farewell to Congress"; with every principle of common law, equity law, constitutional law, and statute law; and the decision does damage to many of the state constitutions, such as those in Maine, Vermont, New Jersey, Pennsylvania, Iowa, Missouri, Colorado, Utah, and Washington.

F. THE UNITED STATES CONSTITUTION, PROVISIONS AND STATUTES

These proceedings concern the rights which are secured, protected, and guaranteed in the following Articles and Amendments to the U. S. Constitution.

The Preamble

"We, the People..."
(Pages 16, 37)

Article II, Section 1

The Electors shall...vote by Ballot for two Persons... The person having the greatest number of votes shall be the President...after the Choice of the President, the person having the greatest Number of Votes of the Electors shall be Vice President.
(Page 60)

Before he (the President) enter on the Execution of the Office, he shall take the following Oath or Affirmation--"I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States.
(Pages 1, 2, 16, 19, 38)

Article II, Section 2

He (the President) shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and consels, Judges of the Supreme Court, and all officers of the United States.
(Page A27)

Article II, Section 3

He shall take care that the Laws be faithfully executed...
(Pages 2, 26, 28, 43)

Article IV, Section 4

The United States shall guarantee to every state in this Union a Republican Form of Government...
(Pages 2, 16, 26, 34, 39, 43, 63, A22, A23, A26)

Article VI

The Constitution...shall be the supreme law of the Land.
(Pages 2, 16, 43, A18)

Amendments I through X, the Bill of Rights

(Page 5)

Amendment IX

The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.
(Pages 2, 16, 26, 42, 43, 44, 65, A23)

Amendment XII

The Electors...shall name in their ballots the person voted for as President, and in distinct ballots the Person voted for as Vice President.
(Pages 2, 17, 43, 60, A23, A25)

Amendment XIV

No state shall...deny to any person within the jurisdiction the equal protection of laws.
(Pages 16, 43, A23, A25, A26)

U. S. Code

18 U.S.C. §241

If two or more persons conspire to injure, oppress, threaten or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of having exercised the same...(the conspiracy shall be an offense against the United States).
(Pages 6, 54)

18 U.S.C. §242

Whoever, under color of any law, statute, ordinance or regulation, or custom, wilfully subjects any individual of any State, Territory or District to the deprivation of any rights, privileges, or immunities, secured or protected by the Constitution or laws of the United States (has offended against the United States).
(Pages 6, 54)

26 U.S.C. §9001-9003

Federal Campaign Funding
(Pages 55, 56, A2, A3)

28 U.S.C. §1651

Any Court may issue all writs necessary or appropriate in aid of (its) jurisdiction.
(Pages 20, 68)

42 U.S.C. §1791

the chief judge of the circuit... (shall) designate immediately three judges...and It shall be the duty of the judge designated to assign the case for hearing at the earliest practicable date and to cause the case to be in every way expedited.
(Pages 30, 53, 68)

D. C. Code

35 C.C.C. §16-3545 (1981)

Where a defendent (has)...usurped, intruded into or unlawfully held or excercised an office or franchise (of the United States)... he (shall) be ousted and excluded therefrom.
(Pages 3, 61, 64)

G. CONCISE STATEMENT OF THE CASE

In the 1980 Presidential election and in years prior to 1980, Mr. Stroom was deprived of an effective Presidential Candidacy, a right which is protected and secured by the Constitution in Article IV, Amendment IX, and elsewhere, due to Mr. Carter's failure to faithfully "execute the laws" of the Constitution, and to provide "equal protection of the laws". (art. II, amend. IX). By common law under which the Constitution was written, this consists of breach of oath. [2/] The Stroom Candidacy has been among the most popular Candidacies in the United States, and around the world, in years since 1975, and it is likely that the Justices of the Supreme Court are familiar with the Candidacy.

Given "equal protection of the laws", the name of the Stroom Candidacy is likely to have appeared on every ballot in the

1980 primary and general elections for President of the United States. The general popularity of the Candidacy, in every region of the United States, established reasonable expectations for a Candidacy election victory in the 1980 Presidential Elections. Only the unconstitutional assignment of conditions to the Stroom Candidacy which did not apply to

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2/ Commentaries on the Laws of England, written in 1765 by William Blackstone, is an authority on common law that is quoted in many of the early cases decided by the United States Supreme Court. A discussion of oaths of office provided by the author establishes the legal protections to the laws of the Constitution which are secured in the oaths. Blackstone states: "Every one who undertakes any office, employment, trust, or duty, contracts with those who employ or entrust him, to perform it with integrity, diligence, and skill. And if, by his want of either of these qualities, any injury accrues to individuals, they have therefore, their remedy in damages by special action... If an officer of the public is guilty of neglect of duty, or a palpable breach of it, or non-feasance or mis-feasance...the party aggrieved shall have an action in the case, for damages." See also the common law remedy for breach of oath which is contained in the "Writ of Accusation of 1327", which is appended to this Petition. (App. at A31)

other Candidacies, and the "unequal pro-protection of laws", deprived the Stroom Candidacy of election to the Office of President of the United States. The Stroom Candidacy has opposed every other Republican and Democratic candidate for President and Vice President in the 1976 and 1980 Presidential Elections.

Also, every eligible voter was deprived of an effective voting franchise as guaranteed by the Constitution, through no fault of the laws of the Constitution, but rather, due to Mr. Carter's negligence to "faithfully execute the laws". (art. II). As a result of this negligence and breach of oath, neither element of the voting franchise, <u>candidate</u> or <u>ballot</u>, was secured in the 1980 Presidential Elections, and every eligible voter was deprived of access to a ballot in which the value of one ballot was equal to that of every other, and to the effective "voice" and participation

in a republican government which the Constitution protects. (Reynolds v. Sims, supra) The election procedures thus failed to provide what is required of U. S. elections by the laws of the Constitution. The election was unconstitutional, null and void. The People have a right to an immediate relief from deprivation of rights which is equitable.

The constitutionality of Presidential votes reported in Congress by the Electoral College is determined by the Constitutionality of votes cast by the People in the various states, as guaranteed by the United States in the laws of the Constitution. The remedy in these proceedings provides that the Court shall notify the Congress that the votes reported by the Electoral College in Congress were unconstitutional, null and void, due to the deprivation of an effective, equitable voting franchise in elections by the People. (App. at A17) The remedy

further requires a "1982 Presidential Special Election" which conforms to the laws of the Constitution, which is a feasible remedy, within the ability of the United States to provide. (App. at A19) No new laws are required by this remedy. The Court instructs the Congress on the guarantees of the laws of the Constitution as they exist, and requires an election which conforms to them. A summation of these requirements is contained in Petitioner's proposed "Order 3" for relief in the Appendix of this Petition, at A21, together with a time schedule for providing such relief.

The case seeking this relief was entered into the U. S. District Court with a request for expedited proceedings. Had the Plaintiff been provided a Three Judge Panel, as is "due" the questions of law contained in this proceeding, 42 U.S.C. §1791, the Court may have avoided the

errors which were made, by providing a more complete review of the issues. A Three Judge Panel was not provided.

Appeal from the District Court was made in the Court of Appeals. No further opinions were entered in these proceedings, though it is very possible, that the Court concluded that the case contains Federal "questions which should be settled in the Supreme Court".

Every eligible voter is deprived of an effective "voice" in the 1982 primary and general elections, as they were in 1980. Ballots, "under color of law" have failed to conform to the Supreme Court directives contained in Reynolds, and elsewhere, which require: "one man, one vote". By establishing relief in these proceedings, the Supreme Court secures the Constitutional guarantee of the United States, for an equitable ballot in every election hereafter, which is an important

public interest.

H. (NOT USED)

I. FEDERAL JURISDICTION IN FEDERAL DISTRICT COURT

This case, involving relief from negligence, and the deprivation of rights guaranteed the People by the Constitution, was entered into the United States District Court for the District

Columbia, pursuant to: 28 U.S.C. §1331

> The district courts shall have original jurisdiction of all civil actions wherein the matter of controversy...arises under the Constitution, laws or treaties of the United States...in any action brought against any officer of the United States.

Venue was established in Washington, D. C., the residence of Mr. Carter, formerly President, during the years relevant to the events of these proceedings.

J. THE ARGUMENT

The questions for review which are contained in these proceedings are of such

as to merit settlement by the Supreme Court. Deprivation of rights which are guaranteed by the Constitution is the cause of injury to those who are deprived, as the Supreme Court ruled in Anderson v. U. S., supra. The public interest is served by the immediate restoration of the voting franchise, such that the People have the effective "voice" and participation in the republican government which the United States guarantees in the Constitution. (art. IV) The 1980 Presidential elections failed to provide what is required of elections by the laws of the Constitution, due to the negligence of Mr. Carter. The elections were unconstitutional, and immediate relief is a right of the People.[3/]

Remedy which is mandated and guaranteed

3/ In Swann v. Board of Education, at 12, the Supreme Court stated that in cases involving "the repair (of) the denial of a constitutional right... The task is to correct...the condition which offends the Constitution.

by the Constitution consists of new elections which conform to the laws of the Constitution. The lower courts failed to provide such remedy, and erred by failing to provide due process of law; by misapplying the laws; and by espousing legal concepts which are not supported by the laws of the Constitution, which are supreme in governing Federal elections. Remedy which corrects past wrong, and which averts similar error in pending elections is essential for the well-being of the nation.

I

IMPORTANT QUESTIONS OF FEDERAL LAW

In cases decided by the Supreme Court, the Court has decreed that an effective voting franchise is among the most important of the liberties and rights which are guaranteed by the Constitution. In Reynolds v.

Sims, the Court stated:

> No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live. Other rights, even the most basic, are illusory if the right to vote is undermined. Our Constitution leaves no room for classification of people in a way that unnecessarily abridges this right. 377 US 560.
>
> Each and every citizen has an inalienable right to free and effective participation in the political processes... Full and effective participation by all citizens... requires, therefore, that each citizen have an equally effective voice in the election...the Constitution demands no less. 377 US 565.
>
> A denial of Constitutionally protected rights demands judicial protection. The judicial oath of office requires no less. 377 US 534.

In Ex Parte Yarbrough, the Court stated:

> It is as essential to the successful working of this government that the great organisms of its executive and legislative branches should be the free choice of the people, as that the original form should be. 110 US 666.

And, by common law, the Courts of England affirmed the rights to an equitable voting franchise in a decision entered in 1704.

In Ashley v. White, the Courts of England stated:

> (Citizens) have a right to vote, and that in consequence thereof, the law gives him a remedy if he is obstructed, and the action is a proper remedy. By the common law of England, each commoner hath a right not to be subjected to laws made without his consent. (the voting franchise) It is a vain thought to imagine there should be a right without remedy... (If a) right, the common law will give remedy to maintain it. 717 Eng. Rep. 280.

The remedy contained in these proceedings brings an immediate relief from deprivation of rights to the more than 200 million Americans. It extends beyond a single congressional district, a single state, or a circuit of the Federal Courts. It responds to Federal questions. Remedy establishes the supremacy of the laws of the Constitution. Remedy aids in the attainment of the essential goals of the Constitution that are contained in the "Preamble". Remedy reinforces the confidence of the People in the integrity of the laws

of the Constitution, which is an important public interest.

Irreparable damages and injury of all types--social and economic, domestic and international, immediate and future--accrue to the People from a government which consists of persons lacking the qualifications required by the Constitution for performing duties contained in Article II of the Constitution. In Anderson v. U.S., the Supreme Court decreed that in cases where there is an agreement to deprive the voting franchise, there is also an agreement to do injury to those who are deprived.

The failure to resolve the questions contained in this proceeding expeditiously, has resulted in unconstitutional elections in 1982. It is both a public interest and a Constitutional mandate, that an equitable voting franchise, which is guaranteed by the United States in Article IV, shall be

provided every eligible voter in the 1982 General Elections. Primary elections in 1982 thus far, have been debased and diluted as they were in 1980. The value of one ballot has not had the value to every other ballot in establishing what is contained on the ballots, and classifications of voters, conflicting with the mandate established in Reynolds above, have abridged rights of the voting franchise. In Pennsylvania's 1982 Primary, fewer than twenty (20) percent of the eligible voters cast ballots. The remaining 80 percent failed to cast votes because they were deprived access, "under color of law", to a ballot which provides "an equal voice" in the elections. Such an election can make no claims to providing for representative, republican government as guaranteed to the People by the United States in every election.

The public interest is served by the immediate restoration of rights of the

voting franchise, such that the People have the effective "voice" and participation in republican government which is guaranteed by the Constitution. Such a restoration secures anew, the supremacy of the laws of the Constitution, from the efforts and negligence of those who seek to deprive the Constitution of its "full force, (of all) its powers" by "resistance to and evasion of its authority". Ableman v. Booth, 21 Howard 504.

II

THE 1980 PRESIDENTIAL ELECTIONS WERE UNCONSTITUTIONAL

The events of the 1980 Presidential Elections, and every ballot cast in November, 1980, are adjudicative evidence which establish that the 1980 Elections were unconstitutional, and thus null and void. Further, nearly a majority of all eligible

voters, 47 percent, failed to cast any ballot because they were deprived of "an equally effective voice" by the election procedures, and a relevant, equal ballot. (Reynolds, at 565). Perhaps as few as twenty percent of the eligible voters actually cast ballots for a single candidacy. In Anderson v. U. S., 417 US 227, the Supreme Court stated that where some citizens are deprived of a right to cast an effective ballot, every ballot which is cast in the election is defective, because the results of the election are decided on some basis other than the free choice and preferences of the People.

The popular support present for the Stroom Candidacy among all eligible voters alone, in 1978, 1979, and 1980, was sufficient cause, in terms of the Constitution's intent, to secure a place for the name of the Stroom Candidacy on every ballot in the primaries and in the general election

in 1980. That the name of a popular candidacy did not appear on ballots is evidence of the damage and injury sustained by the Stroom Candidacy due to Mr. Carter's negligence in providing "equal protection of the laws", and the severity of the deprivation of rights due to the assignment of unique and disadvantageous conditions to the Stroom Candidacy which did not apply to any other Candidacy.

That the name of a popular candidacy did not appear on ballots is further evidence that in 1980, election procedures did not provide electors with access to equally effective ballots--to ballots of equal value. Many more people preferred the Stroom Candidacy to the Carter-Reagan Candidacies. Yet they were ineffective in placing the Candidacy on the ballots, due to the "unequal protection of the laws", and to the unequal value of the ballots. The Stroom Candidacy was among

the most popular in the United States for several years prior to 1980, and had reasonable expectations for an election victory in 1980, given equal protection of the laws. The deprivation of an effective Candidacy is an unconstitutional dilution of the voting franchise protected by Articles IV and VI, and Amendments IX and XIV.

Every eligible voter was deprived of rights contained in the voting franchise in the 1980 Presidential Elections, due to Mr. Carter's negligence in providing for directives contained in Articles II, IV, and VI of the Constitution, and in Amendments IX, XII, and XIV. Concerning Constitutional law, the Constitution establishes the People as sovereigns in the United States, and assigns no role in government to political parties. 4/ Any unique role which political parties exercised in 1980, consisted of an unconsitutional usurpation of rights reserved for the People. (amend.

IX). While laws may not prohibit the participation of political parties in elections, laws may not make it essential to be a member of a political party in order that one acquire a ballot of equal value.

Decisions by the Supreme Court have defined the voting franchise which is guaranteed by the Constitution in the paragraphs above. The decisions establish

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4/ In President Washington's "Farewell to Congress" address in 1796, he emphasized that no roles were intended for political parties in the Constitution, and that therefore, none were provided. He said parties: "agitate the community with ill founded jalousies and false alarms, and kindle the animosity of one part against another." He said further, that parties are the vehicle by which "cunning, ambitious, and unprincipled men will be enabled to subvert the power of the people and to usurp for themselves, the reins of government." President Washington, in making these statements and as president of the Constitutional Convention, would have known what injury is accrued to various Constitutional provisions by a usurpation of rights which are reserved for the people. (amend. IX) There are no amendments to the Constitution since President Washington's address, which in any way alter his authority on these matters.

that an effective voting franchise is denied the People in elections which fail to provide "that each citizen has an equally effective voice in the election". Reynolds v. Sims, at 565. At 563, Reynolds states:

> Overweighting and overvaluation of the votes (for some) has the certain effect of dilution and undervaluation of the votes (for others)... Their right to vote (the undervalued's) is simply not the same right to vote (as the overvalued's).

The value of each voter's ballot is established by its worth in determining what is contained on ballots (nominations), and by its effectiveness at the polls. The decisions rule that any classification of people in elections, such as by political parties abridges the voting franchise. (Reynolds, at 569). Improving the value of some votes by assigning advantageous roles has the certain effect of diluting the value of the ballots of others. (Reynolds, at 533). The decisions further state that

an effective voting franchise is deprived when consideration at the polls is given to anything other than to people, such as to political parties. (Reynolds, at 560) In Anderson v. U. S., supra, the Court stated that when some persons are denied a right to cast a ballot, every ballot which is cast is diluted, distorted, and deficient, by reason that the results failed to express the preferences and free choice of the People. In Baker v. Carr, 369 US 206, the Supreme Court said of the voting franchise: "A citizen's right to vote free of arbitrary impairment by state action has been judicially recognized as a right secured by the Constitution." These decisions by the Supreme Court conform to the authority of President Washington's "Farewell to Congress" address, as the "Opinion" of the District Court does not. (Note 4).

The 1980 Presidential Elections were unconstitutional, null and void. In the

Presidential Election in November, 1980:

1. Voters were not provided an equal opportunity to establish what was contained on ballots. (nominations) As the Supreme Court stated in Reynolds, at 563, and in Anderson, establishing certain advantages for some voters has the certain effect of diminishing the value of the votes of others.

2. The listing of names of political parties on ballots deprived voters of a ballot in which one vote is equal to every other vote. In Reynolds, the Supreme Court stated that in elections guaranteed by the United States, consideration must be for people and for people only, not for numbers of trees, miles of road, or political parties. Further, the listing of names of political parties on ballots suggests a right of political parties to Constitutional roles in the government of the United States. As George Washington stated in his "Farewell to Congress" address, no such roles were intended by the Constitution, no such roles were provided, and none are available which may be uniquely acquired. The inherent rights of the People are inalienable.

3. Voters were not provided separate ballots for voting for the Offices of President and Vice President as is required by Amendment XII of the Constitution.

4. The order of listing candidates on ballots favored certain candidates (political parties), and failed to

conform to the Constitutional mandate for "equal protection of the laws" and an equal right of the Candidates to office. (See also note comments in item 2 above.)

5. Ballots in the 1980 Presidential Elections did not provide for write-in voting. Persons preferring Candidacies not listed on the ballots were disenfranchised of their right to vote, and other votes were devalued by a ballot which failed to provide for the free choice of the People.

6. Nearly a majority of the eligible voters (47%) failed to cast any ballots in the election. As the Supreme Court mandated: When some voters are deprived of effective ballots, every voter is deprived of effective ballots, because the results of the election are established on some basis other than the free choice of the People. (Anderson, supra)

In summation, voters were permitted to cast ballots in the 1980 Presidential Elections, but every eligible voter was deprived of a right to cast a ballot which conforms to the laws of the Constitution due to the negligence of Mr. Carter; and every ballot cast in the 1980 Presidential Elections is adjudicative evidence which supports that statement. Rights reserved

for the People by the Constitution were usurped by others. Ballots were so debased and diluted as to deprive the franchise entirely. As the Court stated in Marbury v. Madison: Where there is a legal right, a Constitutional guarantee, there is also a legal remedy, by suit, or action of law, whenever that right is invaded. And; When the rights of individuals and Americans are dependent upon the performance of acts by government officials, officers are amenable to the laws for their conduct. 1 Cranch 137.

The elections were unconstitutional. The People have a right to have the offices which are established by the Constitution, filled according to the laws of the Constitution. Very simply, the question has been put: What is to be done? The People have a right to a speedy remedy which restores their rights contained in the voting franchise immediately. Constitutional law does not

allow the perpetuation of a wrong which deprives the rights of government it intends to secure. The remedy contained in these proceedings establishes such a relief.

The 1982 primary and general elections are diluted and debased by the same procedures which debased the 1980 Elections. People are not provided an "equal voice" in establishing what is contained on ballots (nominations), and many are deprived of any "voice" at all. In the Pennsylvania Primary fewer than twenty percent (20%) of the eligible voters cast ballots in the Spring, 1982, election. All others were deprived of an effective ballot on which to indicate their preferences. Elections in which twenty percent of the people are permitted to decide who shall govern the remaining 80 percent of the people can make no claim to fulfilling requirements guaranteed by the Constitution. It is in

the public interest that remedy be provided immediately in these proceedings, in order that a United States' guarantee, by order of the Supreme Court, restores those rights of the voting franchise which are established by the Constitution, for filling Constitutional offices. Every other right guaranteed by the Constitution is dependent upon an effective voting franchise.

> The right to vote freely for the candidate of one's choice is the essence of a democratic society, and any restriction on that right strikes at the heart of representative government. And the right of sufferage can be denied by a debasement or dilution of the citizen's vote just as effectively as by wholly prohibiting the free exercise of franchise. Reynolds v. Sims, at 533.

III

THE ERRORS OF LAW IN THE JUDICIAL PROCEEDINGS IN THE LOWER COURTS

Proceedings in the lower courts so far departed from accepted judicial pro-

ceedings as to call for the Supreme Court's power of supervision. The lower courts failed to provide the due process of law which is "due" questions concerned with deprivation of an effective voting franchise. Mr. Carter and the office of the U. S. Attorney entered false and misleading statements, which in the words of the Supreme Court's Anderson v. U. S., supra, consisted of a conspiracy whose "specific intent...(is) to injure the right of all voters to express their choice of a candidate and to have their expressions of choice given full value and effect, without being diluted or distorted..." The "Opinion", based on false statements, misapplies the law so as to distort the laws from their good intentions; and the Court failed to give consideration to the questions of law entered into the court.

The questions and issues entered into the court consider deprivations of

of the rights contained in the voting franchise, and relief from such deprivation. Statute law establishes that expeditious proceedings and Three Judge Panels are "due" such questions. For similar questions 42 U.S.C. §1791 states:

> the chief judge of the circuit... shall designate immediately three judges...(and) it shall be the duty of the judge designated to assign the case for hearing at the earliest practical date and to cause the case to be in every way expedited.

A Three Judge Panel was not provided in the District Court.

The effect of the "Petition for Relief" which was entered into the District Court, was to restore voting rights of the People which were deprived in the 1980 Elections, <u>as of the date it was entered</u>. The remedy in the "Petition" consisted of no more relief than rights which are guaranteed and protected by the Constitution. The relief was also no less than is required of the voting franchise by the Constitution.

No effort which opposed this relief, by the U. S. Attorney or any other officer of the United States, "under color of law", could fail to have the effect of depriving rights guaranteed by the Constitution, or could fail to offend the Constitution according to 18 U.S.C. §241 and 242. That voters are deprived of an effective voting franchise in 1982, may be attributed to the opposition of the office of the U. S. Attorney to the relief.

The lower courts failed to give consideration to the issues and questions entered into the Courts, and were obstructed in their efforts to establish an equitable decision by false and misleading statements entered into the proceedings by Mr. Carter and the office of the U. S. Attorney. The result is an "Opinion" which is completely irrelevant to any issue entered into the Courts. The questions entered into the District Court presented a complaint from

the negligence of Mr. Carter resulting in deprivation of Constitutional rights. That petition did not, and this case never has, sought relief from Federal laws of campaign funding.

Further, the resulting "Opinion" and orders espouse legal concepts which are in error, which misapply the laws, and which are not supported by the laws of the Constitution. The voting franchise is largely protected by the laws of the Constitution, and not by statute law. The laws of the Constitution are supreme where there are conflicts with statute law. Further, it is an error of law to claim that for every condition of Constitutional law, there is, or must be, applicable statute law.

The jurisdiction of the FEC is limited to campaign financing, and as in the Constitutional matters of congressional districting, the ballot and the voting franchise contain issues which are beyond the jurisdiction

of the FEC. Mr. Carter's negligence in this case dates to 1977, prior to any significant interest of the FEC in the campaign. Further, the "Opinion" and orders are a gross misapplication of the campaign funding statutes, whose intent is to remove causes of fraud from elections, which is a public interest, and not to dilute and debase the voting franchise, which does harm to the People. The statutes must be considered within the context of Constitutional law, for it is the voting franchise which must establish how campaigns are to be funded, and not campaign financing, the character of the constitutionally guaranteed voting franchise. These irregular applications of the law, warrant the issuing of certiorari in these proceedings.

IV

THE "OPINION" AND ORDERS CONFLICT WITH THE LAWS OF THE CONSTITUTION

The "Opinion" and orders of the lower courts conflict with the laws of the Constitution, and they conflict with decisions of the Supreme Court in cases decided on the voting franchise. Further, the orders violate established principles of equity law, common law, and constitutional law, upon which the Constitution is established and protected. The orders conflict with commentaries provided by authors of the Constitution, and they do damage to many of the state constitutions.

The "Opinion" and orders of the lower courts conflict with, in the words of Reynolds, at 534, "a long line of consistent decisions in cases decided by the Supreme Court", by failing to protect the integrity of the voting franchise from the efforts and negligence of individuals whose intent

is "to deny and restrict" the right. And further, "judicial protection" of the right, providing restoration, is "demanded by the Constitution". Among these many cases are Reynolds v. Sims, Baker v. Carr, Anderson v. U. S., Ex Parte Yarbrough, and U. S. v. Mosley, supra. Decisions in these cases by the Supreme Court have been uniformly consistant, over many years, and they very carefully conform to the laws of the Constitution. Extensive discussions of these cases are contained throughout this Petition, such as on pages 44 through 46. Very simply, the cases mandate directives and a relief which the lower courts failed to provide or consider.

The "Opinion" of the District Court is contradicted by the authors of the Constitution who provided commentaries on the Constitution's intent. President Washington discussed many of the questions which are contained in these proceedings

in his "Farewell to Congress" address. He stated that the Constitution provided no roles for political parties, and that none were available which might be uniquely acquired. Of oaths of office, he said:

> Let it simply be asked, Where is the security of property, for reputation, for life, if the sense of religious obligation (Justinian's contract) desert the oaths, which are the instruments in the Courts of Justice.

Washington's statements are supported by John Adams' Defense of the Constitution whose discussion of the Constitution provided no roles for political parties. At Adams' inauguration, with Washington present, he supported Washington's earlier statements on political parties, stating:

> We should be unfaithful to ourselves if we should ever lose sight of the danger to our liberties if anything partial or extraneous infect the purity of our free, fair, virtuous, and independent elections. If an election is to be determined by a majority of a single vote, and that can be procurred by a party through artifice or corruption, the Government may be the choice of a party for its own ends, and not of the nation for national good.

James Wilson and James Monroe also supported Washington's statements, saying:

> The Government is founded by the people who possess exclusively the sovereignty. And...The whose system is elective, the complete sovereignty in the People.

Amendment XII is the last of the Amendments to the Constitution which has a direct application to these proceedings. Ratified in 1804, the Amendment's only contribution is to require that the offices of President and Vice President shall be chosen on separate ballots. Earlier, in Article II, the casting of a ballot for President included the casting of a ballot for Vice President.

The "Opinion" and orders of the lower courts conflict with common law, upon which the Constitution was established. Common law contains the protections and remedies which secure the supremacy of the laws of the Constitution. The "Writ of Accusation of 1327", (App. at A31), contains the legal

protection for guaranteed liberties which common law provides. The Writ discusses many of the issues contained in these proceedings, including breach of oath. Common law, contained in contemporary statute law, 35 D.C.C. §16-3545 (1981), mandates remedy in cases in which voting rights are deprived. Remedy declares the offices vacant, and requires a new election. A decision is such a case reads as follows:

> It by no means follows that, because one person unlawfully intrudes into or holds an office, another is entitled to it... (The incumbant) may have been primary ineligible, or have become consequently disqualified. If in such case, he is ousted from the office, his opponent is not installed. A vacancy exists, and a new election follows... The incumbancy, in all such cases, is a public wrong, and for this reason the people demand a removal. The office, like a franchise, in an important sense belongs to the people; and they simply assert their right to having it filled according to law. 13 Colo 303.

The orders of the lower courts also conflict with established principles of equity law, which will not allow a wrong

to be perpetuated when it is within the Court's jurisdiction to remedy the condition. In Swann v. Board of Education, supra, the Supreme Court stated:

> (In) cases involving the framing of equitable remedies to repair the denial of a Constitutional right... the task is to correct...the condition which offends the Constitution. (at 15).
>
> The essence of equity jurisdiction has been to do equity and to mould each decree to the necessities of a particular case. Flexability rather than rigidity has distinguished it. (at 15)
>
> Once a right and a violation has been shown, the scope of...equitable powers to remedy past wrongs is broad, for breath and flexibility are inherent in equitable remedies. (at 20).

Further, Swann states that equitable relief from deprivation should be "speedy". This is a mandate conforming to common law remedy which requires new elections when an election fails to conform to existing supreme laws.

The orders of the lower courts do damage to the constitutions of many states,

such as those of Vermont, New Jersey, Maine, Pennsylvania, Iowa, Missouri, Utah, Colorado, and Washington. These constitutions conform in every way to the Federal Constitution. They establish complete sovereignty in the People. Effective state representation in the Federal government depends upon the guarantee provided by the United States in Article IV. An equal "voice" in the Federal government for each state requires the remedy contained in these proceedings.

The orders of the lower courts conflict with mandates of the Supreme Court established in decisions of cases decided by the Court. Certiorari should be granted.

V

THE REMEDY IN THIS PROCEEDING CONSISTS ONLY OF THE RESTORATION OF RIGHTS WHICH ARE PROTECTED BY THE U. S. CONSTITUTION

The relief from deprivation of rights

which is sought in these proceedings, is contained in Plaintiff's "Motions and Proposed Orders 1, 2, and 3 for Relief" which were entered into the District Court. The proposed "Orders" are appended to this Petition, beginning on page A17 and continuing to page A30.

The remedy is no more than the restoration of rights to the People which are guaranteed and protected by the Constitution, as mandated by common and statute law, (35 D.C.C. §16-3435 (1981), and by Constitutional and equity law. The "Motions and Proposed Orders" state that due to the deprivations listed in the paragraphs above, the 1980 Presidential Election was unconstitutional, for having deprived the People of an election in which each "citizen had an equally effective voice", (Reynolds, at 565), through no fault of the Constitution or laws of the United States, but from the failure and negligence of Mr.

Carter to "faithfully execute the laws" and to provide "equal protection of the laws".5/

As a result of the failure of the People to cast ballots which conform to the laws of the Constitution, the ballots reported to the Congress by the Electoral College were also unconstitutional. The proposed "Order" contained in "Motion 1 for Relief", so notifies the Houses of Congress, their officers, members, and employees, (App. at A17), and orders that a new "1982 Presidential Special Election" be provided to fill the vacant offices, according to the laws of the Constitution. (App. at A19)

Petitioner's proposed "Order 3", (App. at A21), provides for a "1982

5/ Such negligence by common law is not excused by lack of skill. Mr. Carter claimed the essential skills at election, and to lack the skills is to defraud the People. (Blackstone: Commentaries on the Laws of England, 1765)

Presidential Special Election" which secures candidates and ballots, so as to conform to the laws of the Constitution. Special elections are a common technique for filling vacancies in Constitutional offices. They are within the capabilities of the United States to provide; and they effectively provide for the right of the People to have offices which are established by the Constitution, filled according to the laws of the Constitution. The relief also conforms to relief by equity law, where feasible relief which is "speedy" is available when Constitutional rights are deprived. (Swann, at 20)

The relief in proposed "Order 3", (App. at A21) provides for the right of every person to an "equal voice" in establishing what is contained on ballots--to equal protection of the laws--concerning candidates, and for the ballot, in a "call for nominations" by the Congress. (App.

at A29). The relief secures the Candidates by providing a common ballot, printed by the U. S. Printing Office, consistant with principles of "the equal protection of the laws". The ballot is used in every state. Proposed "Order 3" provides for a transition to a new administration, ording to an established time schedule. This relief, pursuant with the mandates of the Constitution contained in Article IV, properly establishes the United States as the unit of government responsible for guaranteeing to every American, an equitable voting franchise. and effective participation in the elective process.

This relief is a remedy which is a Constitutional right of the People--a right to have the offices of the government filled according to the laws of the Constitution; a right to government which is authorized by the Constitution. It is a relief which is guaranteed and mandated by the Constitu-

tion and the laws of the United States in Article IV and elsewhere. No new laws are required. The Court instructs the Congress on the laws which already exist, and orders an election which conforms to them.

The Constitution assigns to the Federal Courts, the responsibility for providing this relief, and provides the authority required to secure every condition established by the Constitution in 28 U.S.C. §1651. By doing so, the Constitution establishes an authority capable of protecting the supremacy of the laws of the Constitution, and the sovereignty of the People.

The negligence of Mr. Carter was an error which deprived the People of rights which are protected and secured by the Constitution, and which did injury to the People. In analyzing the election results, perhaps as few as one in five persons, 20 percent, or even one in ten persons, 10 percent, actually voted for a single

candidate in the 1980 Presidential Elections. Ninety percent of all Americans require the remedy which is provided by these proceedings. As the Supreme Court stated in Marbury v. Madison, and as Blackstone stated in his Commentaries, Mr. Carter's error is corrected in judicial proceedings which provide the equitable remedy which is guaranteed by the Constitution, and which is contained in Petitioner's proposed "Orders 1, 2, and 3" from the District Court.

VI

CONCLUSION

THEREFORE, in consideration for the exceptional importance of the questions, their national interest, the appropriateness of settling Federal questions in the Supreme Court, the errors of the lower courts, the essential guarantees required by pending

elections, and for every other consideration, Petitioner respectfully requests the Supreme Court to grant the Writ of Certiorari, and to provide hearings at the earliest possible date, on questions of national importance.

Dated

by _____
Pro Se

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Philadelphia
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(215) 387-0333

When pages required by the Rules of the Supreme Court, are subtracted as permitted by the rules of the Supreme Court, this Petition has 61 pages.

Certificate of Service

I hereby certify that "all parties required to be served have been served" with three (3) copies of Petitioner's PETITION FOR WRIT OF CERTIORARI, and that the 'Acknowledgment of Service' by each is filed in the Supreme Court with this Petition. Such service has been made by prepaid U. S. Mail to the Respondant to his Post Office address in Plains, Georgia 31780; and in person to the Office of the Solicitor General, Department of Justice, Washington, D. C.; and in person to the Attorney General of the United States at his office in the U. S. Department of Justice, Washington, D. C. The U. S. Attorney, Washington, D. C. has also received service in person.

Dated

by _____
Pro Se

Lowell M. Stroom
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Philadelphia, Penna.